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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,304	10/27/2003	David M. Allen	DMA-10002/36	3573

25006 7590 11/24/2006

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EXAMINER

GILBERT, WILLIAM V

ART UNIT PAPER NUMBER

3635

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/694,304

Applicant(s)

ALLEN, DAVID M.

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☒ Claim(s) 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

This is a second action, non-final action. Claims 1-16 are pending and examined as set forth below. Claims 14 and 15 have been withdrawn from consideration.

### ***Response to Arguments***

1. Applicant's arguments filed 13 September 2006 have been fully considered but they are not persuasive. Regarding the rejection using prior art (Carter, U.S. Patent No. 2,678,476), the structural limitations provided by Carter read on the Claims as rejected. The prior art of Carter has the capability of being used a baseboard. Due to Applicant's amendment of Claim 1, however, the argument is moot as the prior art fails to read on Claim 1 as amended.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**Claim 16** is rejected under 35 U.S.C. 102(b) as being anticipated by Carter (U.S. Patent No. 2,678,476).

Regarding Claim 16, Carter discloses a baseboard (Figure 3, element 19) with a base portion (4) having back and front surfaces, upper and lower ends, the lower end of the base portion is generally flat (see Element "A" from attached Figure 3 from Carter, below) and perpendicular to the back surface, the upper end (5) of the base portion is sloped downward from the front surface to the back surface, and a top portion (member above element 5) having back and opposed front surfaces and upper and lower ends, the lower end (area proximate element 5) of the top portion is sloped downwardly from the front to back surface and the top portion having an installed position where the back surface is adjacent to the wall (3) and the sloped lower end (area proximate element 5) is adjacent the sloped upper end (5) of the base portion.

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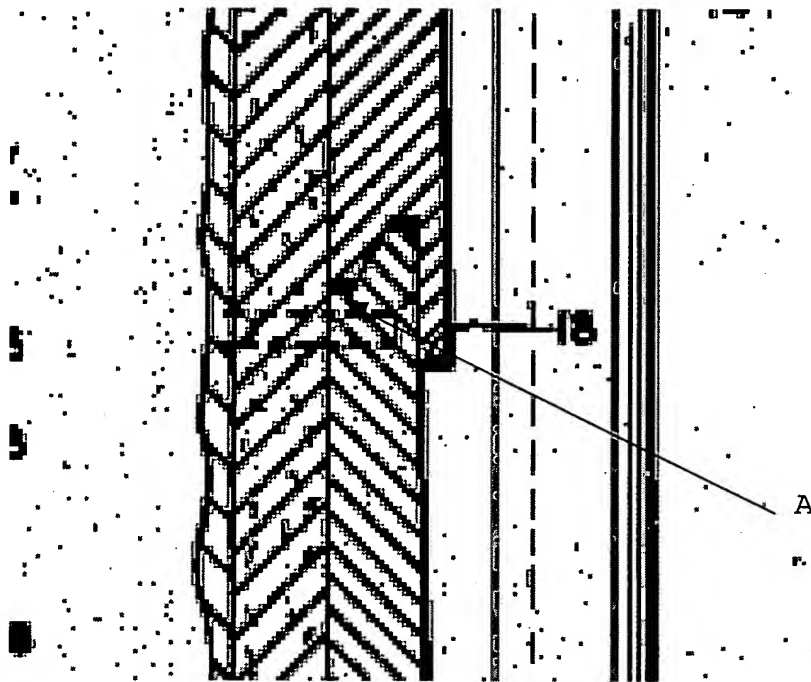


Figure 3 from Carter

***Allowable Subject Matter***

3. Claims 1-13 are allowed. The prior art of record does not disclose that the upper surface of the base portion is sloped downwardly from the front surface to the back surface, the top portion has a lower end that is sloped downwardly from the front surface to the back surface, and that the base portion and top portion have dissimilar cross sections when taken perpendicular to the respective back surfaces. Claims 2-13 are dependent claims that ultimately depend from Independent Claim 1.

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**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ballenger (U.S. Patent No. 1,701,714), Haberman, (U.S. Patent No. 3,298,147), Pinto et al. (U.S. Patent No. 6,189,276), Techmer (U.S. Patent No. 1,964,304), Gathercoal (U.S. Patent No. 2,007,244), Kasson (U.S. Patent No. 1,483,941), Baum (U.S. Patent No. 1,585,960), Trutwin et al. (U.S. Patent No. 6,202,380), Dobija (U.S. Patent No. 4,008,549).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571.272.6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG *WVG*  
*21 Nov 06*



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